

Application No. 10/654,413  
Attorney Docket No. 15047US01

**REMARKS**

The present application includes claims 1-37. Claims 1-37 were rejected by the Examiner. By this Amendment, claims 18 and 24-36 have been canceled, claims 1-2, 5-9, 12-13, 16-17, 19-20, and 37 have been amended, and new claims 38-44 have been added.

Claims 2, 5-9, and 12-36 were rejected under 35 U.S.C. §112 as being indefinite. By this amendment, claims 2, 5-9, and 12-36 have been amended or canceled to comply with the Examiner's concerns.

Claims 1-26 and 28-37 were rejected under 35 U.S.C. §102(a) or §102(e) as being anticipated by Prevost I, U.S. Patent No. 6,551,689.

Claims 1-26 and 28-37 were rejected under 35 U.S.C. §102(b) or §102(e) as being anticipated by Jones, U.S. Patent No. 6,221,445 (§102(b)), Prevost II, U.S. Patent No. 5,958,527 (§102(b)), or Motz et al., U.S. Patent No. 6,800,339 (§102(e)).

Claim 27 was rejected under 35 U.S.C. §103(a) as being unpatentable over Prevost I, Jones, Prevost II, or Motz.

The Applicant now turns to the rejection of claims 1-26 and 28-37 under 35 U.S.C. § 102(a) or §102(e) as being anticipated by Prevost I, U.S. Patent No. 6,551,689. Prevost I teaches synthetic grass with a resilient granular top surface layer. Specifically, as described beginning at Col. 9, Line 37, Prevost I teaches a pile fabric with a flexible sheet backing and rows of upstanding synthetic ribbons extending upward from an upper surface of the flexible sheet backing. As shown in Figure 1, Prevost I teaches an infill layer 3 of particulate matter disposed

Application No. 10/654,413  
Attorney Docket No. 15047US01

interstitially between the synthetic ribbons 2 upon the upper surface of the flexible sheet backing 1. Furthermore, Prevost I teaches that the infill layer 3 is made up of a top course 6 and a bottom mixed course 5. The bottom course 5 is made of intermixed hard sand and resilient rubber granules, as described beginning at Col. 9, Line 63. The top course 6, is composed of rubber granules, as described beginning at Col. 10, Line 18.

As discussed at Col. 9, Lines 33-35, Prevost I teaches that the backing 1 of the synthetic grass assembly is installed on a supporting soil substrate. Specifically, no particulate fill is positioned below the backing 1. Additionally, Prevost I teaches the use of rubber particles the same size as the sand particles, as recited beginning at Col. 11, Line 45: "The natural tendency of the large relatively light rubber particles to migrate to the top and the complementary tendency of smaller heavier sand particles to migrate to the bottom of the infill layer 3 is reduced by the use of equally sized particles."

Thus, Prevost I does not teach the use of positioning particulate fill below the backing 1. Additionally, Prevost I does not teach using rubber particles of two distinct sizes in different particulate layers. Further, Prevost I is silent with regard to the use of a barrier at the edge of the grass assembly to prevent particulate from the particulate layer from escaping the particulate layer. Also, Prevost I does not teach a grass assembly with two regions each of which has a separate depth of particulate so as to provide differing impact dampening.

Independent claims 1 and 12 have been amended to recite a barrier positioned relative to the particulate layer to minimize motion of particulate in the particulate layer relative to the cover layer. As mentioned above, Prevost I is silent with regard to the use of a barrier.

Application No. 10/654,413  
Attorney Docket No. 15047US01

Consequently, claims 1 and 12 are respectfully submitted to be allowable. Dependent claims 2-11, 13-17, and 19-23 offer further differentiation from Prevost I, especially amended claims 7, 8, 19, and 23. Consequently, dependent claims 2-11, 13-17, and 19-23 are also respectfully submitted to be allowable.

Independent claim 37 has been amended to more clearly recite a foundation providing a first level of impact dampening and a second level of impact dampening and a cover layer covering both the first location and the second location. As mentioned above, Prevost I is silent with regard to differing regions of a grass assembly and is also silent with regard to varying impact dampening among different regions in a grass assembly. Consequently, claim 37 is respectfully submitted to be allowable.

The Applicant now turns to the rejection of claims 1-26 and 28-37 under 35 U.S.C. § 102(b) or §102(e) as being anticipated by Jones, U.S. Patent No. 6,221,445 (§102(b)), Prevost II, U.S. Patent No. 5,958,527 (§102(b)), or Motz et al., U.S. Patent No. 6,800,339 (§102(e)).

The Applicant hopes that the discussion below assists in resolving the concerns raised by Jones, Prevost II, and Motz. The Applicant stands willing to address more specific concerns with the references once such concerns are raised, but is unable to identify the Examiner's specific issues at this time because the Office Action includes only a blanket assertion that the "Abstracts, Figures, [and] Claims" of the references teach the current claim limitations. However, the Applicant acknowledges that Examiner's statement that each of the references includes a protective surface layer of synthetic turf with fine particles dispersed into the turf and

Application No. 10/654,413  
Attorney Docket No. 15047US01

will seek to differentiate the present claims from the references as the Applicant believes the Examiner is applying the references.

Turning now to Jones, Jones teaches a composite artificial turf structure with shock absorption and drainage. Jones teaches a top layer of grass fibers 11 including a sand fill S. Underneath the grass layer is a deflection layer C, as described beginning at Col. 5, Line 13, composed of a non-woven layer of fibrous material. Below the deflection layer is the flexible base grid system D. As recited at Col. 4, Lines 35-36, artificial grass B, deflection layer C, and grid D each include a filling of sand S, but no layer of Jones is composed solely of particulate.

Consequently, similar to Prevost I above, Jones does not teach the use of a particulate layer underneath the grass fibers 11. Additionally, Jones is silent with regard to using any type of rubber particles, much less rubber particles of two distinct sizes in different particulate layers. Further, Jones is silent with regard to the use of a barrier at the edge of the surface to prevent particulate from the particulate layer from escaping the particulate layer because Jones teaches a deflection layer, not a particulate layer, under the grass fibers. Also, Jones does not teach a surface with two regions each of which has a separate depth of particulate so as to provide differing impact dampening.

Turning now to Prevost II, Prevost II teaches a process of laying synthetic grass. Prevost II is similar to Prevost I which was discussed above. Thus, Prevost II does not teach the use of positioning particulate fill below the backing 1. Additionally, Prevost II does not teach using rubber particles of two distinct sizes in different particulate layers. Further, Prevost II is silent with regard to the use of a barrier at the edge of the grass assembly to prevent particulate from

Application No. 10/654,413  
Attorney Docket No. 15047US01

the particulate layer from escaping the particulate layer. Also, Prevost II does not teach a grass assembly with two regions each of which has a separate depth of particulate so as to provide differing impact dampening.

Turning now to Motz, Motz teaches a filled synthetic turf with a ballast layer. Motz teaches two types of embodiments. The first type of embodiments employ a single layer of artificial turf, as illustrated in Figures 1, 1A, and 1B. The first type of embodiments are similar to the embodiments of Prevost I, as discussed above, and include similar limitations. The second type of embodiments shown in Motz employs two layers of artificial turf, as shown in Figures 2A and 2B. However, neither layer of artificial turf includes a particulate layer below the layer.

Additionally, Motz is silent with regard to using rubber particles of two distinct sizes in different particulate layers. Further, Motz is silent with regard to the use of a barrier at the edge of the surface to prevent particulate from the particulate layer from escaping the particulate layer. Also, Motz does not teach a surface with two regions each of which has a separate depth of particulate so as to provide differing impact dampening.

Independent claims 1 and 12 have been amended to recite a barrier positioned relative to the particulate layer to minimize motion of particulate in the particulate layer relative to the cover layer. As mentioned above, all of Jones, Prevost II, and Motz are silent with regard to the use of a barrier. Consequently, claims 1 and 12 are respectfully submitted to be allowable. Dependent claims 2-11, 13-17, and 19-23 offer further differentiation from Jones, Prevost II, and Motz, especially amended claims 7, 8, 19, and 23. Consequently, dependent claims 2-11, 13-17, and 19-23 are also respectfully submitted to be allowable.

Application No. 10/654,413  
Attorney Docket No. 15047US01

Independent claim 37 has been amended to more clearly recite a foundation providing a first level of impact dampening and a second level of impact dampening and a cover layer covering both the first location and the second location. As mentioned above, all of Jones, Prevost II, and Motz are silent with regard to differing regions of a grass assembly and are also silent with regard to varying impact dampening among different regions in a grass assembly. Consequently, claim 37 is respectfully submitted to be allowable.

New independent claims 38-44 include independent claims 38, 39, 40, and 41.

Independent claim 38 includes the limitation of a particulate layer that does not include artificial turf. As mentioned above, it is respectfully submitted that none of the references cited teach this limitation.

Independent claim 39 includes the limitation of particulates of two different sizes. As mentioned above, it is respectfully submitted that none of the references cited teach this limitation.

Independent claim 40 is similar to claim 37 and includes the limitation of two different regions of varying particulate depth. As mentioned above, it is respectfully submitted that none of the references cited teach this limitation.

Independent claim 41 includes the limitation of two different regions of varying impact resistance, one of the regions being positioned relative to a structure. As mentioned above, it is respectfully submitted that none of the references cited teach this limitation.

Application No. 10/654,413  
Attorney Docket No. 15047US01

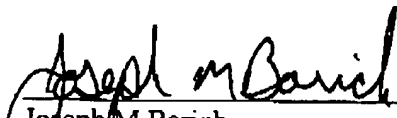
**CONCLUSION**

If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited and encouraged to contact the Applicant at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: July 8, 2005

  
\_\_\_\_\_  
Joseph M Barich  
Registration No. 42,291

MCANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, IL 60661

Telephone: (312) 775-8000  
Facsimile: (312) 775-8100